

# REPORT / RECOMMENDATION



**To:** MAYOR AND COUNCIL

**Agenda Item #:** IV. G.

**From:** Wayne D. Houle, PE, Director of Engineering

**Action** ☒

**Discussion** ☐

**Date:** August 20, 2013

**Information** ☐

**Subject:** Release of Public Improvement and Special Assessment Agreement

**Action Requested:**

Authorize Mayor and City Manager to approve attached Release of Public Improvement and Special Assessment Agreement.

**Information / Background:**

On May 2, 2013, the property owners entered into a Public Improvement and Special Assessment Agreement. The property owners have requested that the City release the subject property from the Public Improvement and Special Assessment. The property owners have paid the special assessment referenced in the Special Assessment Agreement.

**Attachments:**

Release of Public Improvement and Special Assessment Agreement  
Public Improvement and Special Assessment Agreement

(Reserved for Recording Data)

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**RELEASE OF PUBLIC IMPROVEMENT AND  
SPECIAL ASSESSMENT AGREEMENT**

**RECITALS:**

A. The City of Edina, a Minnesota municipal corporation (hereinafter referred to as “City”), and Thomas B. Divine and Marie R. Divine, husband and wife, (hereinafter referred to as “Property Owners”) entered into a Public Improvement and Special Assessment Agreement dated May 2, 2013, and filed for record with the Hennepin County Registrar of Titles on May 30, 2013, as Document No. T05081006 over property legally described on the attached Exhibit A (hereinafter referred to as the “Subject Property”);

B. The City has been requested by Property Owners to release the Subject Property from the Public Improvement and Special Assessment Agreement; and

C. The Property Owners have paid the special assessments referenced in the Special Assessment Agreement.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

The Public Improvement and Special Assessment Agreement filed for record with the Hennepin County Registrar of Titles as Document No. T05081006 is hereby released.

Dated: \_\_\_\_\_

**CITY OF EDINA**

BY: \_\_\_\_\_  
James Hovland, Mayor

AND \_\_\_\_\_  
Debra Mangen, City Clerk

STATE OF MINNESOTA )

COUNTY OF HENNEPIN )ss.  
)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by James Hovland and Debra Mangen, respectively the Mayor and City Clerk of the City of Edina, a Minnesota municipal corporation, on behalf of the corporation and pursuant to the authority granted by its City Council.

\_\_\_\_\_  
Notary Public

THIS INSTRUMENT WAS DRAFTED BY:

Campbell Knutson  
*Professional Association*  
1380 Corporate Center Curve, Suite #317  
Eagan, Minnesota 55121  
651-452-5000  
RNK/cjh

## **EXHIBIT A**

Lot 22, Stow's Yvonne Terrace, Hennepin County, Minnesota.



**PUBLIC IMPROVEMENT  
AMD  
SPECIAL ASSESSMENT AGREEMENT**

**AGREEMENT** made this 2nd day of May, 2013, by and between the **CITY OF EDINA**, a Minnesota municipal corporation ("City") and **THOMAS B. DIVINE AND MARIE R. DIVINE**, husband and wife (the "Property Owners").

**RECITALS**

A. Property Owners are the owners of Lot 22, Stow's Yvonne Terrace, Hennepin County, Minnesota, having a street address of 5009 Yvonne Terrace, Edina, Minnesota (the "Subject Property").

B. The City has requested that Property Owners replace the existing sewer service line(s) from the trunk sanitary sewer pipe to the right-of-way line on the Subject Property ("Public Improvement") and also consider replacing water service line from the stop box in conjunction with City Project No. ENG 12-4.

C. Property Owners have replaced their sewer and have requested that the City assess the cost of the Public Improvement against the Subject Property.

**NOW, THEREFORE, IN CONSIDERATION OF THEIR MUTUAL COVENANTS THE PARTIES AGREE AS FOLLOWS:**

1. **PUBLIC IMPROVEMENT.** The Owners received a quote of \$3,000.00 (the "Project Cost") from Minneapolis & Suburban Sewer & Water, 3233 45<sup>th</sup> Avenue South, Minneapolis, Minnesota 55406 (the "Contractor") to construct the Public Improvement. Property Owners entered into a contract with the Contractor to construct the Public Improvement and Purchase Order No. 1053 was issued to the Contractor. The work is completed and the Contractor has submitted an invoice to the City referring to Purchase Order No. 1053 for the amount of \$3,000.00. The City is in receipt of a lien waiver for the work performed and will pay the Contractor.

2. **SPECIAL ASSESSMENT.** The City will assess the Project Cost in the amount of \$3,000.00 against the Subject Property. The Project Cost will be assessed under the same terms as City Project No. ENG 12-4. The Property Owners waive any and all procedural and substantive objections to the special assessments and to the Public Improvement and to City Project No. ENG 12-4, including but not limited to hearing requirements and any claim that the assessment exceeds the benefit to the Subject Property. The Property Owners waive any appeal rights otherwise available pursuant to Minn. Stat. § 429.081.

3. **BINDING EFFECT; RECORDING.** This Agreement shall be binding upon the Property Owners and the Property Owners' successors and assigns. This Agreement may be recorded against the title to the Subject Property.

**PROPERTY OWNERS:**

Karen K. Bretson

Karen K. Bretson, as Attorney-in-Fact  
for Thomas B. Divine

Karen K. Bretson

Karen K. Bretson, as Attorney-in-Fact  
for Marie R. Divine

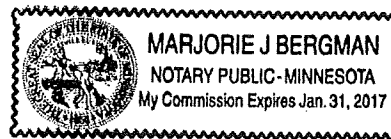
STATE OF MINNESOTA    )  
  )ss.  
COUNTY OF HENNEPIN    )

The foregoing instrument was acknowledged before me this 2<sup>nd</sup> day of MAY, 2013, by Karen K. Bretson, as Attorney-in-Fact for Thomas B. Divine and Marie R. Divine, husband and wife.

Marjorie J. Bergman

Notary Public

DRAFTED BY:  
CAMPBELL KNUTSON  
*Professional Association*  
317 Eagandale Office Center  
1380 Corporate Center Curve  
Eagan, Minnesota 55121  
Telephone: 651-452-5000  
RNK/cjh



**CITY OF EDINA**

BY: \_\_\_\_\_

James B. Hovland, Mayor

AND: \_\_\_\_\_

Scott H. Neal, City Manager

STATE OF MINNESOTA   )  
  )ss.  
COUNTY OF HENNEPIN   )

The foregoing instrument was acknowledged before me this 7th day of May, 2013, by James B. Hovland and by Scott H. Neal, respectively the Mayor and City Manager of the City of Edina, a Minnesota municipal corporation, on behalf of the corporation pursuant to the authority granted by its City Council.

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Sharon M. Allison  
Notary Public

